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Attorneys for Estela D. Reed

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PRINCIPAL LIFE INSURANCE
COMPANY,

Plaintiff,

vs.

VINA CUESTA STATUA, INOCENCIO
S. AMBE, CORAZON AMBE
CABALES, ESTELA D. REED, and
DOES 1-10,

Defendants.

ESTELA D. REED,

Cross-complainant,

vs.

VINA CUESTA STATUA, INOCENCIO
S. AMBE, and CORAZON AMBE
CABALES,

Cross-defendants.

Case No. C-07-4915 CW

MOTION TO EXTEND TIME
AND TO RESET THE CASE
MANAGEMENT CONFERENCE
CURRENTLY SET FOR
JANUARY 15, 2008

SUPPORTING DECLARATION
OF MONTIE S. DAY

(LOCAL RULE 6.1(b))

(ERRATA)

1
2 TO THE COURT, THE PARTIES AND THEIR ATTORNEYS OF RECORD:

3 APPLICATION IS MADE and set for January 3, 2008, or as soon thereafter as the
4 matter may be heard in before the Honorable Claudia Wilken, at Courtroom 2, 4th Floor,
5 United States Courthouse, Oakland, California, and notice is hereby given that defendant and
6 cross-claimant Estella D. Reed, with the consent of Pacific Life Insurance Company and
7 Vina Cuesta Statua, will move this Court for an ORDER to continue the Case Management
8 Conference currently set for January 15, 2008 to March 25, 2008 at 2:00 p.m.

9 The application is made pursuant to Local Rule 6.1(b), and is made by application in
10 that there are two parties have not appeared in the action and thus a complete stipulation to
11 continue the hearing cannot be made to the Court. **Notwithstanding, as to the parties now**
12 **before the Court, this matter appears to be resolved and it is anticipated with the**
13 **extension of time, this matter will be settled and fully resolved.**

14 The grounds for the continuance of the CMC are as follows:

15 1. The parties now before the Court are Principal Life Insurance Company who filed
16 the interpleader action, Vina Cuesta Statua, a defendant, and Estela D. Reed, a defendant and
17 a cross-claimant. Not before the court are Inocencio S. Ambe (resident of the Philippines)
18 and Carazon Ambe Cabales (San Leandro, California), both of whom are being served or
19 have been served.

20 2. As among Principal Life Insurance Company who filed the interpleader action and
21 the defendants Vina Cuesta Statua and Estela D. Reed, an agreement has been reached
22 whereby \$2,500.00 will be paid to Principal Life Insurance Company, conditioned upon the
23 Court entering the order for the attorney fees and costs and an order discharging the
24 Principal Life Insurance Company from this action and any liability. In that there are two
25 minority interested defendants who have not been defaulted and have not appeared, a noticed
26

1 motion, which is being prepared by counsel for Estela D. Reed will be filed, will be filed.
2 However, the notice requirement for such a motion would required 35 days so that notice
3 can be given the minority defendants.

4 3. As between defendant Vina Cuesta Statua, who has potentially 94% interest in the
5 interpled funds, and Estela D. Reed, who has potentially 100% interest in the interpled
6 funds, an agreement has been reached as of December 20, 2007, whereby Vina Cuesta Statua
7 would received \$10,000.00 from the interpled funds (after the \$2,500.00 is paid to Principal
8 Life Insurance Company). Defendant Estela D. Reed would receive the balance.

9 4. As to defendants Inocencio S. Ambe (resident of the Philippines) and Carazon
10 Ambe Cabales (San Leandro, California), both of which have been served or are in the
11 process of being served, it is unlikely they will appear. These two defendants have only a
12 contingent beneficial interest of 6% of the proceeds, even if they prevailed in the action. It
13 is likely that neither of these defendants will appear and it is expected that their default will
14 be taken when time has expired for such action

15 5. If the defaults of Inocencio S. Ambe (resident of the Philippines) and Carazon
16 Ambe Cabales (San Leandro, California) are taken, then this matter may be disposed of by
17 a stipulated judgment. If, on the other hand, either party does appear in the action, the
18 motion to discharge Principal Life Insurance Company as described above will proceed and
19 be decided by the Court. At this point, Vina Cuesta Statua, Estela D. Reed, and Principal
20 Life Insurance Company are in agreement with the motion.

21 For the reasons set forth above, it is believed that the parties will resolve this matter
22 by or before March 25, 2008, and by such time, will be able to either totally resolve the issues
23 or will eliminate the major issues leaving the two contingent potential interested parties.

1 Date: December 21, 2007

DAY LAW OFFICES

2 /s/ Montie S. Day

3 BY: _____

4 Montie S. Day, Attorney

5
6 DECLARATION OF MONTIE S. DAY

7 I, Montie S. Day, declare:

8 1. I am an attorney duly admitted to practice before this Court, and make this
9 declaration upon personal knowledge.

10 2. The facts and grounds as set forth in the application above are true and correct.

11 3. As to the Plaintiff Principal Life Insurance Company and the defendants Vina
12 Cuesta Statua and Estela D. Reed has been essential resolved, subject to procedural issues.
13 The procedural issues and a motion are required to consummate the agreement as the two
14 minority interested defendants have not appeared in the action.

15 4. The defendants have been served by the Plaintiff Principal Life Insurance
16 Company, as of December 20, 2007, the defendant Inocencio S. Ambe (resident of the
17 Philippines) is being served the summons on the cross-claim pursuant to Rule 4 via UPS
18 personal delivery. The other defendant has been requested to return the waiver of service and
19 acknowledgment by mail.

20
21 I declare under the penalties of perjury that the foregoing is true and correct, and that
22 I have executed this declaration on December 21, 2007 at Williams, California.

23 /s/ Montie S. Day

24 _____
25 Montie S. Day, Attorney

CERTIFICATE OF SERVICE

I, Montie S. Day, state that the following described documents were served on the below listed parties and/or attorney in the manner set forth below:
Documents Served:

MOTION TO EXTEND TIME AND TO RESET THE CASE MANAGEMENT
CONFERENCE CURRENTLY SET FOR JANUARY 15, 2007 AND
SUPPORTING DECLARATION OF MONTIE S. DAY'

PROPOSED ORDER

by serving electronically the following automatically upon filing by ECF procedures

Michael K. Brisbin

michael.brisbin@wilsonelser.com,joya.yeung@wilsonelser.com

Adrienne Clare Publicover

Adrienne.Publicover@WilsonElser.com,Nancy.Li@WilsonElser.com,Charan.Higbee@
WilsonElser.com

Montie S. Day

Oyad@aol.com

Daniel J. DeVries

DJDV@DeVriesLawGroup.com,jma@devrieslawgroup.com,cbj@devrieslawgroup.com

and by serving the following parties who may have an interest in the pending motion by
mailing such notice addressed as follows (if not served electronically as above):

Corazon Ambe Cabales
14323 Merced Street
San Leandro, CA 94579
Defendant

Mr. Inocencio S. Ambe
907 Paroba Street
Santa Maria, Sta. Ana
2022 Pampanga, Philippines
Defendant

I declare under the penalties of perjury that the foregoing is true and correct, and that I have
executed this certificate on December 22 2007 at Williams, California 95987.

/s/ Montie S. Day

Montie S. Day, Attorney

NOTICE OF MOTION AND MOTION TO CONTINUE CMC/ and DECLARATION